

Serial No.: 10/726,013  
Docket No. 03043-1  
FUS.064

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Koji UTSUGI, et al.

Serial No.: 10/726,013

Group Art Unit: 1745

Filing Date: December 3, 2003

Examiner: Laura Weiner

For: ELECTROLYTE FOR SECONDARY BATTERY AND SECONDARY  
BATTERY USING SAME

Honorable Commissioner of Patents  
Alexandria, Virginia 22313-1450

**SUBMISSION OF TERMINAL DISCLAIMER**

Sir:

In response to the Office Action dated November 27, 2007, Applicant herewith submits a Terminal Disclaimer disclaiming the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior U. S. Patent No. 7,163,768.

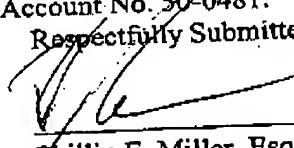
In view of the foregoing, Applicant submits that all of the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 5020481.

Respectfully Submitted,

Date: 1/25/08

  
Phillip E. Miller, Esq.

Registration No. 46,060

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PTO/SB/26 (10-07)

Approved for use through 10/31/2007. OMB 0851-0031

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<b>TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT</b>	<b>Docket Number (Optional)</b> 03043-1/2002-170228
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In re Application of: Koji UTSUGI, et al.

Application No.: 10/726,013

Filed: December 3, 2003

For: ELECTROLYTE FOR SECONDARY BATTERY AND SECONDARY BATTERY USING SAME

The owner, NEC CORPORATION, of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 7,163,768 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its fully statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 46,060

[Signature]  
Signature

1/25/08  
Date

Phillip E. Miller, Esq.  
Typed or printed name

703-761-4100  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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\* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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